IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 1275 of 2003

Date of decision : November 29, 2007

Kishori Lal

....Appellant

versus

Tara Chand

....Respondent

Coram: Hon'ble Mr. Justice Pritam Pal

Present : Mr. Krishan Singh, Advocate for the appellant

Pritam Pal,J. (Oral)

The appellant has brought this second regular appeal against judgment and decree dated 21.9.1992 passed by the trial court whereby his suit for permanent injunction was decreed. However, the relief sought for mandatory injunction was declined. Thereafter, the appellant also filed an appeal which was also dismissed vide judgment and decree dated 18.10.2002.

A perusal of the impugned judgments and decrees goes a long way to show that both the courts below have given concurrent finding regarding the existence of common passage marked as ABCD shown in site plan Ex. P2. Ultimately, a relief of permanent injunction has been granted restraining the defendant/respondent from encroaching upon or interfering in any manner in the aforesaid common passage. However, relief with regard to mandatory injunction seeking the removal of roof over the passage

has been declined. It is also observed by the courts below that even otherwise defendant/respondent had not raised the alleged roof beyond his share and that roof is also not going to cause an obstruction in light and air to the plaintiff-appellant, as discussed in para no. 17 of the judgment dated 18.10.2002 of the first appellate court. The findings returned by the trial court on material issues are not perverse or un-reasonable. Moreover, in this appeal, no substantial question of law arises for consideration by this Court.

Dismissed in *limine.*

(Pritam Pal)
Judge

November 29, 2007
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